

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF INDIANA
NEW ALBANY DIVISION

IN RE:)
)
EASTERN LIVESTOCK CO., LLC,) Case No. 10-93904-BHL-11
)
Debtor.)

**SUPPLEMENTAL APPLICATION TO EMPLOY PHILLIP L. KUNKEL AS MEDIATOR
FOR THE PREFERENCE ACTION MEDIATIONS**

Comes now James A. Knauer, Chapter 11 Trustee of Eastern Livestock Co., LLC ("Trustee"), by counsel, and moves the Court for an order approving employment of Phillip L. Kunkel, standing mediator, as mediator for the Preference Action Mediations.¹ In support of his Motion, the Trustee shows the Court as follows:

1. On April 3, 2013, Phillip L. Kunkel ("Mr. Kunkel") was approved as mediator for the Preference Action Mediations subject to further order of this Court approving his compensation. (Order Establishing Procedures for Certain Adversary Proceedings ¶ 6(C)(iv), Apr. 3, 2013 ECF No. 1920 ("Procedures Order")).

2. Pursuant to the Procedures Order, the Trustee seeks Court approval of Phillip L. Kunkel's compensation at the hourly rate of \$500.00 per hour, all as more particularly outlined on Exhibit "A" to the Application to Employ Phillip L. Kunkel as Mediator filed herein on January 3, 2012 (ECF No. 940).

3. As provided for in the Procedures Order, the estate will pay seventy-five percent (75%) of the mediator's fee, and the other party or parties to the Preference Action Mediation will pay twenty-five percent (25%) of the hourly rate.

¹ All capitalized terms used herein not otherwise defined shall have the meanings set forth in the Procedures Order or the Motion for Order Establishing Procedures for Certain Adversary Proceedings (ECF No. 1741) ("Motion"). If the meanings in the Procedures Order or Motion conflict, the meaning set forth in the Procedures Order shall control.

4. The mediator's fee is reasonable in light of his qualifications and experience in agriculture-related bankruptcies as set forth in the Application to Employ Phillip L. Kunkel as Mediator filed herein on January 3, 2012 (ECF No. 940) and approved by this Court on January 17, 2012 (ECF No. 968). In addition, he will be mediating multiple Preference Actions at the same time pursuant to the current Preference Action Mediation schedule.

5. Phillip L. Kunkel has submitted two verified statements setting forth his connections, if any, with the debtor, creditors, any other party in interest, their respective attorneys and accountants, the U.S. Trustee, or any person employed in the office of the United States Trustee. See Application to Employ Phillip L. Kunkel as Mediator Ex. B, Jan. 3, 2012 (ECF No. 940); Notice of Submission of Supplemental V.S. of Phillip L. Kunkel Ex. A, May 24, 2013 (ECF No. 2195). Copies of the previously filed verified statements are attached hereto as Exhibit "A".

6. The Trustee believes the employment of Phillip L. Kunkel as mediator for the Preference Action Mediations is in the best interests of this estate.

7. A copy of this Motion will be served on all counsel of record in the above captioned Chapter 11 case, all defendants in the Preference Actions, and all counsel who have filed appearances in the Preference Actions as of the date of this Motion, excluding any parties to Preference Actions that have been dismissed since the entry of the Procedures Order.

WHEREFORE, James A. Knauer, Chapter 11 Trustee of Eastern Livestock Co., LLC, prays that the Court approve Phillip L. Kunkel as mediator for the Preference Action Mediations, and for all other relief proper in the premises.

Respectfully submitted,

KROGER, GARDIS & REGAS, LLP

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CERTIFICATE OF SERVICE

I hereby certify that on June 24, 2013, the foregoing was electronically sent to the following parties. Parties may access this filing through the Court's system.

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